



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,250	11/28/2001	Richard Ormson	15109	2976

23389 7590 07/23/2004

SCULLY SCOTT MURPHY & PRESSER, PC  
400 GARDEN CITY PLAZA  
GARDEN CITY, NY 11530

EXAMINER

GELIN, JEAN ALLAND

ART UNIT PAPER NUMBER

2681

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/996,250

Applicant(s)

ORMSON, RICHARD

Examiner

Jean A Gelin

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4, 5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 4-8 and 14-16 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 11, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Meadows et al. (US 6,690,292 B1).

Regarding claims 1, 11, Meadows teaches a vehicular traffic monitoring system (col. 1, lines 7-10) comprising a mobile telephone (wireless) network including a plurality of base stations (i.e., motion sensors connected to cell tower) for receiving and transmitting signals from and to mobile telephones (col. 1, lines 55-59), and a position monitoring unit for deriving the position of mobile telephones communicating via the mobile telephone network, the position monitoring unit comprising a store for storing

Art Unit: 2681

identification and position data for a plurality of mobile telephones and a traffic flow analyser for determining traffic flow at positions of mobile telephones wherein the store and traffic flow analyser are configured such that the traffic flow is predominantly determined only from identification and position data of a subset of mobile telephones (i.e., calculation of traffic could be performed by sensors, col. 4, lines 1-6), the subset being those mobile telephones of users that have indicated a traffic monitor request to the mobile telephone network (i.e., the system determines traffic information stored in the database corresponding to a specified request, col. 2, lines 1-19, i.e., the sensors for sending information about the flow of traffic upon detection, col. 2, line 60 to col. 4, line 6).

Regarding claims 2, 12, Meadows teaches wherein the subset of mobile telephones (used by the subscriber) is those that have transmitted a traffic monitor request to the mobile telephone network (col. 3, lines 5-11).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meadows et al. (US 6,690,292 B1) in view of Wilkes, Jr. (US6,683,538).

Regarding to claims 3, 13, Meadows teaches all the limitations above except wherein the mobile telephones in the subset of mobile telephones are each arranged to broadcast a signal to the network more frequently than mobile telephones not in the subset.

However, the preceding limitation is known in the art of communications. Wilkes teaches a wireless terminal broadcasts its own location and the location being broadcast is updated continually as the mobile moves when the terminal's alert is turned on (i.e., set of terminal having the alert turned on broadcast location update), col. 6, lines 8-30). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to implement the technique of Wilkes within the system of Meadows in order that the terminal receiver moving within the range of Traffic Alert System would be receiving road condition information for a desired area.

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meadows et al. (US 6,690,292 B1).

Regarding claim 9, Meadows teaches a mobile telephone adapted for use with a vehicular traffic monitoring system (i.e., portable terminal incorporated as a fixed unit in an automobile, col. 3, lines 20-26), associated with a mobile telephone network, comprising: a radio unit (col. 3, lines 20-23), processor and memory for providing telephone communication with a mobile telephone network including periodic update signals (inherently within the cellular telephone, PDA, portable handset, col. 3, lines 18-23) and arranged to provide a traffic update signal function, the traffic update signal

Art Unit: 2681

function comprising an input for receiving a request from a mobile telephone user for traffic information (col. 3, lines 1-11, col. 6, lines 7-15) and an output for causing the radio unit to broadcast an update signal (col. 6, lines 44-53).

Meadows does not specifically teach an output for causing the radio unit to broadcast an update signal more frequently than usual. However, the teaching of receiving traffic update information and average speed information as the portable handset is moving can well be used for receiving traffic update more frequently as the mobile is moving faster (see col. 3, lines 5-10, col. 6, lines 44-53). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the traffic update information and the speed of the portable with the automobile in order that the subscriber of the portable handset can quickly request traffic information while operating an automobile moving at high speed.

Regarding claim 10, Meadows teaches wherein the traffic update signal function is arranged to cause the radio unit to broadcast an update signal as a function of traffic flow data provided by the traffic monitoring system (col. 6, lines 8-53).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Alperovich et al. (US 6,185,421) teaches system apparatus and method for paging optimization using sub-location.

Murthy (US 6,353,792) teaches system and method for remote communication of traffic monitoring device data.

Art Unit: 2681

Atkinson et al. (US 6,650,948) teaches traffic flow monitoring.

Minovitch (US 4,361,202) teaches automated road transportation system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A Gelin whose telephone number is (703) 305-4847. The examiner can normally be reached on 9:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Erika A Gary can be reached on (703) 308-0123. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGelin  
July 1, 2004

*Jean Holland Gelin*

JEAN GELIN  
PATENT EXAMINER